

REMARKS/ARGUMENTS

Claims 1-25 are currently pending in this application, as amended. By the present Amendment, claims 1-25 and paragraph [0045] of the specification have been amended. No new matter has been introduced into the application by these amendments.

Formalities Objections/Rejections

In the Action, the specification was objected to as the Brief Description of the Drawings did not reference Figure 11. An appropriate correction has been made at paragraph [0045]. This appears to have been an error made during translation of the original priority application as Figures 10 and 11 were both originally referenced in this paragraph. Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Action, claims 1-25 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants have amended claims 1-25 in order to conform with U.S. practice and to ensure proper antecedent basis is provided for the recited claim elements. In view of the amendments to claims 1-25, withdrawal of the Section 112 rejection of claims 1-25 is respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. §102

Claims 1, 2 and 5-13 were rejected under 35 U.S.C. §102(a) as anticipated by WO 00/05336 to Modlin et al. Applicants respectfully traverse this rejection.

35 U.S.C. §102(a) states:

"A person shall be entitled to a patent unless –
(a) the invention was known or used by others in this country or patented or described in a printed publication in this or a foreign country before the invention thereof by the applicant for patent, ..."

In the present case, priority was claimed under 35 U.S.C. §119 from German priority application DE 199 20 811.5, which has a filing date of May 6, 1999. This is

before the February 3, 2000 publication date of WO 00/05336 and prior to the July 9, 1999 filing date of U.S. Provisional Application No. 60/143,185, from which WO 00/05336 claimed priority. In view of this, applicants assert their right of priority under 35 U.S.C. §119 and 365. The Action acknowledges that the certified copies of the priority documents have been received in the National stage application from the International Bureau (PCT Rule 17.2(a)). Accordingly, the only formal requirement remaining to perfect applicants' foreign priority right is submission of an English language translation together with a statement that the translation of the certified copy is accurate. See 37 C.F.R. §1.55. Attached hereto is a certified English translation of DE 199 20 811 along with a statement that the translation is accurate. Thus, the priority right to the May 6, 1999 priority date of DE 199 20 811 should be accorded to the present application. In view of this, withdrawal of the Section 102(a) rejection of claims 1, 2 and 5-13 is respectfully requested.

Applicants also note that WO 00/05336 claimed priority to U.S. Provisional Application 60/093,768, filed July 22, 1998. However, this does not relate to the subject matter of the present invention. Instead, it is directed to preventing evaporation of precious reagents from slide samples.

Claim Rejections – 35 U.S.C. §103

Claims 14-16, 18, 20 and 22 were rejected under 35 U.S.C. §103(a) as obvious in view of Modlin et al. Claims 3, 4 and 19 were also rejected as obvious in view of this reference further in view of U.S. 6,376,233. Claims 17, 21, 24 and 25 were also rejected as obvious over the combination of Modlin et al. and of U.S. 5,468,605.

Applicants note that these rejections have now been rendered moot as the primary reference, Modlin et al., has been removed. Accordingly, withdrawal of the Section 103 rejection of these claims is respectfully requested.

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place the present application in condition for allowance, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendments and remarks, applicants respectfully submit that the present application, including claims 1-25, is in condition for allowance, and a Notice to that effect is respectfully requested.

Respectfully submitted,

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Enclosure